

The City Council met in regular session at the hour of 8:31 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Brian Calhoun	Councilmember
	Brad Castillo	Acting Council President
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Tom Boyajian	Council President

Dan Hobbs, City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Reverend Stephen Lundgren, Director, Center for Spiritual Care at St. Agnes Medical Center & Christ Healer Chapel, gave the invocation, and Councilmember Duncan led the Pledge of Allegiance to the Flag.

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PROCLAMATION OF ARBOR DAY - COUNCILMEMBER CALHOUN

PROCLAMATION OF CLEAN AIR MONTH - COUNCILMEMBER PEREA

PROCLAMATION OF ARMENIAN GENOCIDE DAY - MAYOR AND CITY COUNCIL

PROCLAMATION OF NATIONAL DONATE LIFE MONTH - COUNCILMEMBER STERLING

PROCLAMATION OF HISPANIC BROADCASTING CORPORATION DAY - MAYOR AND CITY COUNCIL
(*Read and proclaimed/no one present to accept*)

CERTIFICATES TO THIRD QUARTER DISTRICT 4 STUDENTS - ACTING PRESIDENT CASTILLO

The above proclamations and certificates were read and presented.

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APPROVE MINUTES:

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the minutes of April 8, 2003, approved as submitted.

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APPROVE AGENDA:

HBO TOP RANK BOXING EVENT HELD AT THE CONVENTION CENTER ON 4/19/03, AND COMMENDATION TO CONVENTION CENTER STAFF - COUNCILMEMBER DAGES

Councilmember Dages commended Interim Director Sweeney and staff on the event and commented briefly stating it was a first class event with 7,255 people attending.

hereby approved, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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ADOPT CONSENT CALENDAR:

(1-A) APPROVE THE SALE OF AN ABANDONED WELL SITE LOCATED ADJACENT TO 833 S. STANFORD AVENUE TO THE ADJACENT OWNER FOR A TOTAL PRICE OF \$2,000, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR ASSISTANT DIRECTOR TO EXECUTE ALL APPROPRIATE DOCUMENTS TO COMPLETE THE TRANSACTION

(1-B) RESOLUTION NO. 2003-111 - INTENT TO ANNEX FINAL TRACT NO. 4701 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 48, AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES

(1-C) * RESOLUTION NO. 2003-112 - 80TH AMENDMENT TO AAR 2002-216 APPROPRIATING \$55,900 IN FEDERAL GRANT FUNDING FOR THE DESIGN AND CONSTRUCTION OF THE MacMICHAEL LOOP TRAIL ON THE JENSEN RIVER RANCH ADJACENT TO WOODWARD PARK

1. AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE AND SUBMIT ALL DOCUMENTS PERTAINING TO CONSTRUCTION OF THE MacMICHAEL LOOP TRAIL WHICH MAY BE NECESSARY FOR COMPLETION OF THE PURPOSE OF SECURING GRANT FUNDS AND TO IMPLEMENT AND CARRY OUT THE PURPOSE SPECIFIED IN THE APPLICATIONS, ALL SUBJECT TO PRIOR APPROVAL AS TO FORM BY THE CITY ATTORNEY'S OFFICE

(1-E) RESOLUTION NO. 2003-113 - AUTHORIZING THE SUBMITTAL OF GRANT APPLICATION FOR \$200,000 TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB) FOR ALL AVAILABLE GRANTS UNDER THE CALIFORNIA OIL RECYCLING ENHANCEMENT ACT AND ALL AVAILABLE HOUSEHOLD HAZARDOUS WASTE (HHW) GRANTS UNDER THE CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT FOR THE PERIOD JULY 1, 2003, TO JUNE 30, 2006, TO CONTINUE TO PROVIDE CURBSIDE COLLECTION OF USED OIL/FILTER AND PROMOTE THE STATE CERTIFIED COLLECTION CENTERS; AND AUTHORIZE THE PARKS, RECREATION AND COMMUNITY SERVICES DIRECTOR OR DESIGNEE TO EXECUTE AND SUBMIT ALL DOCUMENTS NECESSARY TO COMPLETE THE PROJECT

(1-F) RESOLUTION NO. 2003-114 - AUTHORIZING THE SUBMITTAL OF FUNDING REQUESTS TO THE DEPARTMENT OF CONSERVATION (DOC) FOR THE CITY/COUNTY PAYMENT PROGRAM, 2003/2004

1. AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES TO EXECUTE AGREEMENTS AND CONTRACTS TO IMPLEMENT THE GRANT TO ALLOW THE CITY TO CONTINUE TO PROVIDE BEVERAGE CONTAINER COLLECTION AND EDUCATION PROGRAMS

On motion of Acting President Castillo, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

CONSENT CALENDAR - BILL FOR INTRODUCTION/RESOLUTION FOR ADOPTION:

(2-A) * BILL NO. B-30 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO SEWAGE AND WATER DISPOSAL
1. * RESOLUTION NO. 2003-115 - 407TH AMENDMENT TO MFS RES. 80-420 RELATING TO THE CONNECTION OF CHARGES FOR SEWER

On motion of Acting President Castillo, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Bill No. B-30 introduced before the Council and laid over, and the above entitled Resolution No. 2003-115 hereby adopted, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None

Absent : None

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CONTESTED CONSENT CALENDAR ITEMS:

(1-D) RESOLUTION - AUTHORIZING SUBMITTAL OF A GRANT APPLICATION TO THE CALIFORNIA PARKS AND RECREATION DEPARTMENT UNDER THE LAND AND WATER CONSERVATION FUND FOR IMPROVEMENTS TO THE FULTON MALL

Councilmember Duncan requested the item be laid over one week so he could review it further and get some questions answered.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Item **1-D** laid over one week, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

(1-G) AWARD CONTRACT TO A-C ELECTRIC COMPANY FOR SAFE ROUTES TO SCHOOL, INSTALLATION OF FLASHING BEACONS AND SIDEWALK CONSTRUCTION

Acting President Castillo complimented staff on the flashing beacons, questioned how the locations were chosen and what the criteria was (with public works staff member Mosier responding), spoke briefly to the false sense of security school children had with crosswalks, and made a motion to approve staff's recommendation. President Boyajian thanked staff for selecting the Crystal and Clinton Avenues site stating it was a real safety issue with speeders on Clinton Avenue.

On motion of Acting President Castillo, seconded by Councilmember Dages, duly carried, RESOLVED, the late submittal by A-C Electric Company of a letter stating they will perform not less than 30% of the work declared a minor irregularity, and a contract hereby awarded to A-C Electric Company of Fresno in the amount of \$75,195 to construct safe routes to schools by installation of flashing beacons and construction of sidewalks, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

Acting President Castillo briefly left the meeting at 9:21 a.m.

(1-H) AWARD A CONTRACT TO GELCO SERVICES, INC., FOR REHABILITATION OF WASTEWATER COLLECTION SYSTEM BY METHOD OF CURED-IN-PLACE PIPE IN MAPLE AVENUE AND MCKINLEY AVENUE, AND AT FRESNO YOSEMITE INTERNATIONAL AIRPORT

(1-I) AWARD A CONTRACT TO INSITUFORM TECHNOLOGIES, INC., FOR REHABILITATION OF WASTEWATER COLLECTION SYSTEM BY METHOD OF CURED-IN-PLACE PIPE IN IOWA AVENUE AND BLACKSTONE AVENUE

Councilmember Dages noted Gelco was the lowest bidder on **1-H** and came in second on **1-I** and questioned why they could not be awarded both contracts since they were the same project and had a difference of only \$39,000, with Purchasing Manager Taggart responding they were two separate bids and the Charter had to be followed.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, relative to Item **1-H**, a contract hereby awarded to Gelco Services, Inc., of Salem, Oregon, in the amount of \$974,502.75 to rehabilitate the wastewater collection system by method of cured-in-place pipe in Maple Avenue, McKinley Avenue, and at the Fresno Yosemite

International Airport; and relative to Item **1-I**, a contract hereby awarded to Insituform Technologies, Inc., of Chesterfield, Missouri, in the amount of \$1,253,813 to rehabilitate the wastewater collection system by method of cured-in-place pipe in Iowa Avenue and in Blackstone Avenue, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : Castillo

(1-J) RESOLUTION NO. 2003-116 - CONTINUING RESOLUTION NO. 2003-84 PROCLAIMING A LOCAL EMERGENCY RELATING TO THE FIRE AT ARCHIE CRIPPEN EXCAVATION IN THE VICINITY OF MARKS AND NEILSEN AVENUES

Barbara Hunt, 2475 S. Walnut, expressed concern with the process and the way the fire was handled, noted there were still a lot of people concerned about their health, and expressed concern with the City paying Archie Crippen for services, with President Boyajian and Councilmember Sterling clarifying what was at issue this date and advising the **(2 - 0)** task force report was forthcoming and those issues would be addressed. Acting President Castillo returned to the meeting at 9:25 a.m.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2003-116 hereby adopted by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(3-A) ADOPTION OF RESOLUTIONS SUBMITTED BY THE RULES COMMITTEE

1. RESOLUTION - RESCINDING RESOLUTION NO. 97-222 AND ESTABLISHING RULES OF PROCEDURE FOR THE CITY COUNCIL

2. ****RESOLUTION - ESTABLISHING PROCEDURE FOR EVALUATION OF THE CITY CLERK AND THE CITY ATTORNEY**
(NOTE - Resolution #2 adopted at the end of the meeting)**

City Attorney Montoy reviewed the issue as contained in the committee's report as submitted; expanded briefly on Rules 6, 8, 9, 18, 19 and 23, and corrected Rule 23 by adding the words "and time." to the last sentence of "a"; and clarified the evaluation of the City Attorney and City Clerk was being presented by separate resolution as it did not relate to the conduct of meetings. President Boyajian commended committee members for their service.

Gloria Torrez expressed concerns with various rules including the public comment period being at the end of the meeting with the media/people gone, and stated citizens should be able to speak at all meetings on any item, it was Council's job to listen to constituents' concerns, consent items dealing with money were not "routine" and should not be considered as such, and citizens should be able to remove items from the consent calendar, speak under both scheduled and unscheduled communications, speak to any issues relevant to the subject and staff reports, and be able to evaluate the City Clerk and City Attorney. Barbara Hunt, 2475 S. Walnut, stated Fresno should not be a Charter city and read language from Charter Sections 502 and 506 relative to meetings and citizen participation, stated peoples' rights were being taken away with the proposed rules, and expressed concern stating people were allowed by law to speak on any item on the agenda, with President Boyajian responding.

Lengthy discussion ensued with City Attorney Montoy, President Boyajian and Councilmembers Duncan, Perea, Dages and Castillo clarifying issues, commenting on the issue, and/or presenting questions relative to the public comment period, scheduled and unscheduled communications, streamlining procedures being at issue and people still having the ability to speak, when council rules were last amended, how the rules will affect the Redevelopment Agency, need for the RDA Chair to have input, if Council timed items were being limited or discouraged, how Council members could schedule a timed item, if no more

than two (2) items also applied to the administration/departments, Councilmember Dages stating Council was limiting itself to its own legislation and expressed concern with various rules (i.e. two item limit, Rules 4a, 5a, 5b, 5d), and if a council member having to lobby three others to set an issue at a time certain was an opinion or fact, with Ms. Montoy, City Clerk Klisch and

Assistant City Manager Souza responding throughout.

Proceedings were briefly interrupted for the following time scheduled matter.

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(10:00 A.M. #1) PROCLAMATION CELEBRATING IRAQI FREEDOM - COUNCILMEMBER DUNCAN

The proclamation was read and presented. Councilmember Duncan stated the war was pretty much over and advised the purpose of the proclamation was to welcome the people of Iraq and to send a positive message to the community that we are all one community and it was time for discrimination against some of the community to end.

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(3-A) ADOPTION OF RESOLUTIONS SUBMITTED BY THE RULES COMMITTEE - CONTINUED FROM EARLIER

1. RESOLUTION - RESCINDING RESOLUTION NO. 97-222 AND ESTABLISHING RULES OF PROCEDURE FOR THE CITY COUNCIL
2. **RESOLUTION - ESTABLISHING PROCEDURE FOR EVALUATION OF THE CITY CLERK AND THE CITY ATTORNEY

Councilmember Dages continued stating he had no input, reiterated Council's legislative abilities were being limited, and stated he wanted to meet with the city attorney or suggested a workshop be scheduled to go over the rules one-by-one. Councilmember Calhoun questioned why a committee was even put in place if now a workshop was being requested, stated all the information was before Council and he felt Council needed to discuss, debate and vote on the rules **(3 - 0)** stating this was an important issue, and added the committee put in a lot of work. Councilmember Duncan spoke in support of a workshop and suggested council members submit their questions/concerns to staff beforehand, with Mr. Souza stating questions to the city attorney and the committee would be packaged in tray memo form and submitted to Council before the workshop.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Item **3-A** tabled for a workshop to be scheduled in two weeks, by the following vote:

Ayes :	Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes :	Calhoun
Absent :	None

*(**NOTE - Resolution #2 adopted at the end of the meeting)*

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(10:00 A.M. #2) CONTINUED HEARING ON PLAN AMENDMENT NO. A-02-22, REZONING APPLICATION NO. R-02-45, FILED BY AL SOLIS OF KRAZAN & ASSOCIATES, ON BEHALF OF THOMAS R. BUTLER, INC., PROPERTY LOCATED ON THE NORTH SIDE OF W. HERNDON GENERALLY BETWEEN N. MILBURN AND THE N. CORNELIA AVENUE ALIGNMENT (DISTRICT 2)

1. CONSIDER AND ADOPT THE MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-02-22/R-02-45/C-02-41
2. **RESOLUTION NO. 2003-117** - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE BULLARD COMMUNITY PLAN (APPROVING PLAN AMENDMENT NO. P.A. A-02-22)
3. **BILL NO. B-31 - ORDINANCE NO. 2003-30** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM C-P/EA/UGM/cz TO R-2/EA/UGM

President Boyajian announced the time had arrived to consider the issue and opened the hearing.

Councilmember Calhoun stated he was very supportive of the project and was prepared to move forward after the hearing. Planner Unruh gave a brief overview of the issue as contained in the staff report as submitted and advised there was no opposition to the project.

Al Solis, Krazan & Associates, added the developer worked with the neighborhood for over one year and worked out agreements through a series of meetings and added the library of information was part of City files and recommended approval based on that information.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

Councilmember Calhoun clarified there were neighborhood concerns that were worked out through numerous meetings, commended all involved stating this was going to be a fine project and the neighbors were comfortable with it, and made a motion to approve staff's recommendation. President Boyajian noted he has opposed area projects in the past due to traffic concerns and questioned if there would be any changes made to Antioch Avenue and the frontage road, with Mr. Solis responding.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. A-02-22/R-02-45/C-02-41, dated February 27, 2003, hereby approved; the above entitled Resolution No. 2003-117 hereby adopted; and the above entitled Bill No. B-31 adopted as Ordinance No. 2003-30, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling
Noes : Boyajian
Absent : None

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(10:15 A.M.) CONTINUED HEARING ON REZONING APPLICATION NO. R-02-27 AND ENVIRONMENTAL FINDINGS, FILED BY LEO WILSON HOMES, PROPERTY LOCATED ON THE SOUTH SIDE OF E. COPPER AVENUE BETWEEN N. MAPLE AND N. CEDAR AVENUES (DISTRICT 6)

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-02-27, C-02-249, R-5101, FINDING OF CONFORMANCE WITH THE 2025 FRESNO GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (EIR) NO. 10130

2. BILL NO. B-32 - ORDINANCE NO. 2003-31 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AL-20 (COUNTY) TO R-1/UGM

President Boyajian announced the time had arrived to consider the issue and opened the hearing.

Planner Chamberlain gave a brief overview of the issue as contained in the staff report as submitted, and Councilmember Duncan added this would bring the project into compliance with the 2025 General Plan and made a motion to approve staff's recommendation.

Upon call, no one wished to be heard and President Boyajian closed the hearing.

President Boyajian stated not seeing any linkage or impact fees he would stay consistent and oppose the project.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding of Environmental Assessment No. R-02-27/C-02-249/T-5101, dated February 26, 2003, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR No. 10130 hereby approved, and the above entitled Bill No. B-32 rezoning the subject property adopted as Ordinance No. 2003-30, to become effective for any portion of the Tract for which a final map of Vesting Tentative Tract No. 5101/UGM is recorded, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling
Noes : Boyajian
Absent : None

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141-161

4/22/03

(5-A) CONSIDER ADOPTION OF CITY OF FRESNO NEW FLAG SALUTE POLICY - COUNCILMEMBERS DUNCAN AND DAGES

1. DIRECT ALL OFFICIAL CITY OF FRESNO PUBLIC MEETINGS TO BEGIN WITH THE PLEDGE OF ALLEGIANCE, TO BE EFFECTIVE AT ALL CITY COUNCIL AND BOARDS AND COMMISSIONS MEETING, BOTH ON-SITE AND OFF-SITE

Briefly reviewed by Councilmember Duncan who stated this would be the appropriate and right thing to do, no one would go to jail, and this would pertain only to official City meetings and not neighborhood meetings, and made a motion to approve the policy. Councilmember Dages seconded the motion stating he felt this was a good idea for the City's boards and commissions. Upon question of President Boyajian, City Attorney Montoy clarified Council had the right to adopt the policy but the City could not legally compel or mandate anyone to recite the Pledge of Allegiance.

Speaking in opposition to the motion were: Debbie Reyes, and Gail Gaston, Chair, Human Relations Commission, who stated people should not be forced to recite the Pledge and presented questions relative to cost for flags in meeting rooms and who would be responsible for them.

Lengthy discussion ensued. Councilmember Calhoun stated he had a concern with Council imposing its will on people/volunteer committees; stated the intent was good but he could not support the motion as it raised questions and would lead to problems and explained; stated if people felt it in their heart and wanted to salute on their own that was fine but he felt the City should not even suggest something as it carried a lot of weight; and stated he wished the issue was not before Council as he did not want to vote against it. Councilmember Sterling noted people from all walks of life with different religious beliefs served on boards and commissions and she did not want people forced to salute; noted she also was concerned with the cost factor stating that needed to be considered; and advised she could support the policy as long as people were not forced to salute. Councilmember Duncan clarified this was never meant to be mandatory and would only be policy; relative to cost stated he would pay for flags for meeting rooms so there would be no cost to the City; and reemphasized this was not a mandatory or constitutional issue. Councilmember Perea stated this was a good issue but he felt it got bogged down in politics and the real issue was not even being talked about any longer, and made a motion to table the matter one week and have the city attorney and city manager report back with recommendations to take the politics out of the issue. Ms. Montoy stated her office researched the issue and reiterated as long as City was not compelling or mandating anyone, Council could have a general policy that they would like the Pledge recited at the beginning of official meetings. Councilmember Sterling commented again briefly, thanked Councilmember Duncan for his offer to provide flags, reiterated she did not want to infringe on the rights of citizens, and stated as long as the city's legal authority was comfortable with the policy she was also. President Boyajian noted it was said the salute would not be mandatory and pointed out that was essentially the policy now, and questioned what the issue was and what the argument was. Acting President Castillo concurred with Councilmember Calhoun's comments; stated patriotism was measured by what a person felt in their heart and not by how loud they said the Pledge or by how many flags they were willing to pay for; and stated this was a divisive issue, it served no purpose, and people already had the right to salute or not.

A motion and second to reopen public testimony was made and approved by consensus. Minister Brian Jessup, Unitarian Universalist Church, spoke to the complicated times and the need to remember everyone together as Americans.

Ms. Montoy responded to questions of Councilmember Perea relative to what would change, if anything, with the proposed policy, whereupon Councilmember Perea stated he, too, wished the matter was not before Council as this became a political football and it was unfortunate the way it came about. President Boyajian stated this was a good debate and should not be a political issue; noted he appoints people to boards because they are tolerant individuals, tolerant of others, and they respect diversity; and stated once someone is appointed it is up to them to choose the way they want to show their patriotism and elaborated.

A motion of Councilmember Duncan, seconded by Councilmember Dages, to adopt a new City of Fresno flag salute policy failed, by the following vote:

Ayes :	Dages, Duncan, Sterling
Noes :	Calhoun, Castillo, Perea, Boyajian
Absent :	None

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RECESS - 10:53 A.M. - 11:13 A.M.

141-162

4/22/03

(10:45 A.M.) REQUEST STAFF TO PROVIDE THE STATUS, UPDATE AND DIRECTION, IF NECESSARY, ON THE STUDY OF THE CITY OF FRESNO'S CONSTRUCTION ACCOUNTABILITY FOR THE PUBLIC WORKS DEPARTMENT - COUNCILMEMBER DAGES

Councilmember Dages reviewed the background of the issue; advised meetings had occurred and noted a draft accountability ordinance had been created and was in Council's packet for review and for the city attorney to make any

appropriate changes; emphasized this was about accountability and explained citing a specific occurrence in his district; and **(4 - 0)** stated he wanted to direct the city attorney to draft and return with an accountability ordinance for a public hearing and vote, including input from the public works department. Relative to the District 5 project referenced by Councilmember Dages, Assistant City Manager Souza clarified District 5's budget was billed \$8,000 and was not billed based on the estimate. Upon question of President Boyajian, Councilmember Dages clarified the purpose of scheduling the item was to ask for a status report from staff, an update on what has been going on, and to propose the draft ordinance in the packet.

Assistant Public Works Director Elam gave an update and spoke to the meetings that have occurred, last December's update, there being no pressure to do something within 60 days because of the realization that it would take time, staff providing detailed expense reports on the stadium parking lots and the Brawley median project at the request of the construction industry, and information shared at meetings with the industry by fleet and public works staff, and stated staff felt their work with the industry was going very well in that a lot of concerns were being addressed and concluded stating public works had a great record of providing the cheapest and best service.

Bob Boileau, construction industry, stated Mr. Elam gave an accurate overview of the eight meetings and advised they received a lot of good information, displayed on the overhead a cost breakdown received from staff on the Brawley median project stating it did not help the industry as it did not break out the costs in detail and it contained unknown codes, submitted a simple format currently being used by the City which broke down costs and requested that type of format be used so the industry could make accurate evaluations, clarified what specific type of information they were requesting, and requested the ordinance be forwarded to the city attorney to put in proper form and return for a formal vote.

Councilmember Calhoun questioned what the issue was pointing out discussion was occurring on a current on-going issue and no action could be taken, whereupon Councilmember Dages made a motion to direct the city attorney to accept the draft ordinance and return with a public works accountability ordinance in proper form. The motion was seconded by Councilmember Duncan and later acted upon. Mr. Souza clarified a council committee was established and that was the committee that was to return within 60 days and stated he did not like the inference that public works staff had not responded or had been sitting around. Upon further question of Councilmember Calhoun, City Attorney Montoy clarified the motion was in order and brief discussion ensued. Councilmember Calhoun stated he felt there was a lot of confusion here, he was uncomfortable with the motion, and made a motion to table the matter 30 days, which motion died for lack of a second.

Councilmember Duncan stated as the only remaining council committee member he was glad to see a draft ordinance being proposed; stated it was still unknown what it cost to compete on a public and private level; stressed the information from the City was impossible to decipher; and stated the ordinance would begin the process to get an apples-to-apples comparison.

President Boyajian questioned whether an ordinance was necessary to get things accomplished, if staff could be requested to report the information in the format requested by the industry, and if it was possible for staff to restructure their reporting information, with Ms. Montoy and City Manager Hobbs responding. Mr. Hobbs requested staff be allowed to accept the challenge of getting an apples-to-apples comparison, stated he "shuddered" at the thought of an ordinance and what would be required to implement it, stated it was his understanding the City's workforce did the job cheaper and he was willing to let the data speak for itself, and requested staff be allowed to "wrestle" with the accounting issue and work with the committee and industry and report back.

Lengthy discussion continued with Councilmember Duncan, Mr. Boileau, Councilmember Dates, Mr. Hobbs, Mr. Elam, Ms. Montoy and Mr. Souza responding to questions, comments and/or concerns of President Boyajian and Councilmembers Calhoun, Castillo and Sterling relative to whether the construction industry still wanted an ordinance after hearing the city manager's request, who crafted the proposed ordinance, if the industry was willing to give staff the time they were requesting to work on the information and reporting format, if the unions had input into the proposed ordinance and if they were comfortable with it, Councilmember Dages clarifying he preferred the ordinance route instead of policy as there was fear of another six month

delay, why Councilmember Duncan (the only remaining committee member) did not ask for this update, re-clarification that the committee was directed to report back and not staff, Council owing it to staff to provide a report back and possibly consider an ordinance at that time (with Councilmember Calhoun requesting Councilmember Dages withdraw his motion and allow staff to report back), President Boyajian requesting (if the ordinance route passes) that costs to administer the ordinance be included in the report, if public works staff assisted Councilmember Dages with the ordinance, if Councilmember Dages was part of the committee and if the council committee was still meeting, if Councilmembers Dages and Duncan talked this issue over, if staff

had concerns with the cost to administer the ordinance, staff envisioning a very short ordinance like the one for consultants, Ms. Montoy requesting her office be given discretion to work with staff and the private sector on the ordinance, project codes and need for the industry to understand the meaning **(5 - 0)**, how the City can obtain data from the private sector to make comparisons, President Boyajian noting neighborhood projects were not being excluded and that went against what council said initially, if private citizens could find out how monies are being spent, and Councilmember Dages clarifying (1) the ordinance being presented was a draft only, (2) no one was saying public works was not doing a good job, and (3) the issue was about accountability.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the City Attorney directed to draft a construction accountability ordinance and return to Council for consideration and a vote, by the following vote:

Ayes : Castillo, Dages, Duncan, Perea, Sterling
Noes : Calhoun, Boyajian
Absent : None

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LUNCH RECESS - 12:12 P.M. - 2:05 P.M.

(11:00 A.M.) * RESOLUTION NO. 2003-118 - AUTHORIZING AND APPROVING THE BORROWING OF FUNDS FOR FY 2003-2004, THE ISSUANCE AND SALE OF 2003 TAX AND REVENUE ANTICIPATION NOTES THEREFOR, AND PARTICIPATION IN THE CALIFORNIA COMMUNITIES CASH FLOW FINANCING PROGRAM

Treasury Accountant Hardcastle reviewed the issue as contained in the staff report as submitted, and along with City Manager Hobbs responded to questions of Acting President Castillo and Councilmember Dages and/or clarified issues relative to money to be made on the transaction, what the interest rate was, if the City ever lost money in the past, if revenue was being created, why the City was not borrowing more if savings were being created, what else could be used for collateral besides expected tax revenue, why money has to be borrowed if the budget is always based on expected revenue, how long the City has engaged in these transactions, where in the budget the savings are shown, term of the note, why 12 to 15 months was needed for pay-off, if savings were earmarked for specific expenditures, amount borrowed last year and why more was being borrowed this year, reason for going to \$42 million, the \$13 million in savings, if fixed or variable rates were received in the past, if the savings sat in TRANs reserves, rates and breakdowns, and why funds are not budgeted since the City receives money from Fresno County twice a year. Mr. Hobbs and Councilmember Duncan added this transaction was a good business and investment practice, a cash flow process, and was very routine.

On motion of Councilmember Duncan, seconded by Acting President Castillo, duly carried, RESOLVED, the above entitled Resolution No. 2003-118 hereby adopted, and the City Manager, Controller, and City Clerk authorized to execute the appropriate documents, including the Official Statement, Note Purchase Agreement, and other documents as necessary to issue the TRANs, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(3-B) AWARD A REQUIREMENTS CONTRACT TO CENTRAL VALLEY TRUCK CENTER OF FRESNO FOR SIDE LOADING REFUSE TRUCKS

141-164

4/22/03

General Services Director Nerland reviewed the issue as contained in the staff report as submitted, spoke to key points Council needed to be aware of, and recommended the contract be awarded to Central Valley Truck Center (CVTC). City Attorney Montoy and City Manager Hobbs clarified issues and/or responded to questions of President Boyajian relative to the appeal filed, the appeal period, if Council could listen to testimony from the appellant, options available to Council, the "value based" bid process followed last time, and how Central Valley Truck came out first in both the total net bid and total lifetime cost.

Speaking the issue were: Gloria Torrez, no address given, opposed to utilizing FAX money and fuel, request FAX buses

be kept diesel, and questioned why trucks were being purchased when 5 new ones were sitting in the corporation yard; Attorney Jim Shekoyan, Baker, Manock & Jensen, representing Mr. Shirvanian and Smart Truck Systems (STS), opposed to staff's recommendation, distributed written information on cost comparison and a letter from STS relative to differences with the analysis conducted, and requested Council purchase some of each of the trucks, operate them for six months at no obligation to the City to determine the best performance and advised they would take their trucks back if they did not out perform the others; Kosti Shirvanian, STS, opposed to staff's recommendation; Richard Aranas, Sales Manager, CVTC **(6 - 0)**, and Ed Inahara, CVTC, support for staff recommendation stating the process was fair; and Farook Kahn, STS, Moreno Valley, CA, who corrected some comments made by CVTC speakers.

Mr. Nerland responded to questions of Councilmember Duncan relative to the testing and what assumptions were made, if staff felt maintenance costs would be comparable, if trucks have been running on diesel since the matter was last considered eight months ago, if all the bidders signed off on the process, if staff was still comfortable with their recommendation after hearing testimony this date, and if staff was in support of the total cost concept. Councilmember Duncan stated he agreed with staff, emphasized they had a compelling case eight months ago and had one now, stated a delay would be bad for taxpayers and the environment, and made a motion to approve staff's recommendation. The motion was seconded and acted upon after additional brief discussion with Mr. Nerland responding to questions of President Boyajian and Acting President Castillo relative to whether staff looked at leasing versus buying, what the test was on maintenance, if bidders participated in the tests and if they had an opportunity to sign on or off, and if results would have been different if tests were performed with an LNG truck.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, a requirements contract with provisions for two one-year extensions for Option A, twelve side loading refuse trucks with LNG engines, hereby awarded to Central Valley Truck Center of Fresno in the amount of \$2,287,254 for the combination of the Autocar WX64 chassis with Heil Rapid Body, by the following vote:

Ayes :	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes :	None
Absent :	None

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(5-B) RESOLUTION NO. 2003-119 - ENDORSING ASSEMBLY BILL 933 (REYES) SUPPORTING THE FAMILIES OF SLAIN PEACE OFFICERS AND FIREFIGHTERS - COUNCILMEMBER PEREA

Councilmember Perea stated he scheduled the matter at the request of the Fresno County Deputy Sheriff's Association who was asking Council to support their cause, and spoke to other organizations/individuals in support of the bill.

Councilmember Calhoun stated this was probably not a bad bill but questioned why it was before Council; stated it was not healthy for Council to vote on bills that did not directly affect the city of Fresno; and reiterated this was not a bad bill and would probably pass but he would have to abstain in voting as he felt it was inappropriate to get involved in bills going through the legislature. Councilmember Duncan concurred this was a good bill but stated he felt it was premature as the bill was still going through committee hearings; suggested the bill be brought back when it is in its final form; and also questioned why the issue was before Council and clarified although he was not opposed to the bill at all he would also be abstaining. Upon question of President Boyajian, City Attorney Montoy clarified whether the bill was in final form or not it still would not apply to the City, and added if Council were to approve the resolution this date and the bill did change Council may want to reconsider it. Councilmember Perea stated he did not feel the bill would change much and emphasized this would show Council's support for its local law enforcement officials.

On motion of Councilmember Perea, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the above entitled Resolution No. 2003-119 hereby adopted, by the following vote:

	141-165	4/22/03
Ayes :	Castillo, Dages, Perea, Sterling, Boyajian	
Noes :	None	
Absent :	None	
Abstain :	Calhoun, Duncan	

- - - -

Acting President Castillo left the meeting at 3:10 p.m.

(3-A) CONTINUED FROM EARLIER - ADOPTION OF RESOLUTIONS SUBMITTED BY THE RULES COMMITTEE
1. RESOLUTION - RESCINDING RESOLUTION NO. 97-222 AND ESTABLISHING RULES OF PROCEDURE FOR THE CITY COUNCIL
2. RESOLUTION NO. 2003-120 - ESTABLISHING PROCEDURE FOR EVALUATION OF THE CITY CLERK AND THE CITY ATTORNEY

Councilmember Calhoun noted Council took action earlier to table the entire matter two weeks for a workshop, pointed out there were two parts to the item, and requested action be taken on resolution #2 stating this would be routine, was necessary, and would start the process as outlined in the resolution.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2003-120 hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : Castillo

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Councilmember Sterling advised the task force report on the Archie Crippen Excavation fire was finished and distributed copies to the City Council.

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(2:00 P.M.) CLOSED SESSION:

- (A) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - CASE NAME: OLGA SALAZAR V. COF**
- (B) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: GILBERT TORRES V. COF, ET AL.**
- (C) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:**
1. AMALGAMATED TRANSIT UNION (ATU) UNIT 06
2. FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA)
- (D) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAMES:**
1. COF V. ELISSA IONE MILLER, JUSTIN EARL STROUD, AND DARREN JEAN MILLER
2. COF V. MAULDIN-DORFMEIER, PARSONS BRINCKERHOFF, INC., DANIEL MANN JOHNSON AND MENDENHALL

The City Council met in closed session in Room 2125 at the hour of 3:20 p.m. to consider the above matters, reconvened in regular option session at 4:52 pm. to report there were no announcements out of closed session, and adjourned thereafter.

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141-166 **4/22/03**

ADJOURNMENT

There being no further business to bring before the Council, the hour of 4:53 p.m. having arrived and hearing no objection, President Boyajian declared the meeting adjourned.

APPROVED on the 29th day of April, 2003.

_____/s/_____
Tom Boyajian, Council President

ATTEST:_____/s/_____
Yolanda Salazar, Assistant City Clerk